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SUBJECT: GENERAL DEBATE AND RESOLUTION ON THE INTERNATIONAL
CRIMINAL COURT (ICC)

REF: STATE 112496

¶1. Summary: On October 29, Judge Sang-Hyun Song updated the General Assembly on the activity of the International Criminal Court (ICC). Twenty-eight Member States addressed the General Assembly on the issue. Most countries pledged support for the ICC and commended Chile and the Czech Republic for ratifying the Rome Statute. Member States also called on enhanced collaboration with the ICC, specifically with regards to the eight outstanding warrants. Most of the interventions welcomed the upcoming Review Conference in Uganda. Several countries (Sudan, Cuba, Egypt and Iran) delivered contentious speeches. On November 2, the General Assembly approved a resolution on the ICC without a vote but with the United States and Libya explaining their respective positions. End Summary.

¶2. On October 29, Judge Sang-Hyun Song reported to the General Assembly on the recent activity of the ICC. The ICC's first trial (against Thomas Lubanga Dyilo) started in January with the Court's second trial (against Mathie Ngudjolo Chui and Germain Katanga) set to start next month. He cited three achievements of the Court in particular: the significant amount of attention given to the protection of witnesses compared to other courts, how it is operating against a blank slate of jurisprudence, and how capably the Court has handled the participation of victims. He noted that his biggest obstacle was the lack of arrest or surrender of suspects who now total eight. Judge Song later highlighted his three priorities for the ICC under his presidency: to ensure respect for the judicial independence of the Court; to enhance the effectiveness of the Rome Statute; and to continue to strive for the Court to be a model of public administration. He concluded by expressing his desire for increased cooperation with the United Nations and for a positive outcome from the Review Conference in Uganda in 2010.

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REGIONAL GROUP SPEECHES
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¶3. Sweden, on behalf of the European Union (EU), reaffirmed its support for the ICC's fight against impunity and encouraged other regional groups (such as the African Union) to increase cooperation with the Court. It commended Chile and the Czech Republic for ratifying the Rome Statute which brought the number of States Parties to 110. The EU expressed concern for the outstanding warrants of arrest and thanked Uganda for hosting the upcoming Review Conference.

¶4. New Zealand, representing Canada, Australia, and New Zealand (CANZ), observed that the Rome Statute was on its way

to achieving universal acceptance, noting this should be the Court's primary goal. CANZ called on countries to provide assistance and cooperation to the Court in its efforts to gather evidence, enforce sentences, and apprehend accused persons.

¶5. Trinidad and Tobago, representing the Caribbean Community (CARICOM), expressed concern that several countries have failed to assist in enforcing the eight outstanding warrants and called for increased cooperation with the ICC. CARICOM commended the efforts of the ICC in its measures to protect witnesses, victims, and the accused and backed Guyana's Justice Duke Pollard election to the ICC next month. Trinidad and Tobago welcomed the upcoming Review Conference in Uganda, stating it wanted to define the crime of aggression.

¶6. Kenya addressed the General Assembly on behalf of the African Group of State Parties to the ICC and urged all Member States to ratify the Rome Statute. Kenya said that the ICC will go a long way to deter human rights abuses and praised the work of the liaison office in New York, commenting that another office should be opened in Addis Ababa. Kenya pledged enhanced cooperation between the African Union and the ICC and committed its support for the upcoming Review Conference in Uganda.

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COMMON THEMES AND NOTEWORTHY INTERVENTIONS
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¶7. Most of the interventions commended Chile and the Czech

Republic for ratifying the Rome Statute, bringing the total number of Member States party to the Rome Statute to 110. These same countries called for more Member States to ratify the Statute which will lead to its universal acceptance. Member States also called on increased cooperation with the ICC, particularly with regard to the eight outstanding warrants. Most of the interventions welcomed the upcoming Review Conference in Uganda, with several countries (Brazil, DRC, Cuba, Argentina, and Iran) hoping that it will focus on defining the crime of aggression. Finally, most of the interventions focused on how the ICC complements national jurisdictions.

¶8. Ambassador Abdalmahmood Abdalhaleem Mohamad of Sudan asserted that the ICC was destined to fail just like the League of Nations. According to Sudan, the ICC is full of contradictions and flaws and is highly politicized. He criticized the ICC Prosecutor as being a political activist in search of fame. Sudan claimed that the Rome Statute should only apply to those countries that have ratified it and condemned the ICC for breaching the immunity granted to heads of state and government. Mohamad criticized the ICC for only focusing on Africa and called it a "new legal Apartheid."

¶9. Cuba criticized the ICC's lack of independence from the Security Council. It called for a clear definition of the crime of aggression at the Uganda Review Conference and referenced - without specifically naming the United States - the U.S. embargo as such an aggression. Cuba was concerned by the precedent that could be set by initiating legal proceedings against nationals of non-State parties that had not accepted the ICC's competence.

¶10. Egypt also faulted the ICC for attempting to oblige States that had not ratified the Rome Statute to adhere to it. It called on Member States to reach a definition of the crime of aggression and to avoid politicization of the Court. Egypt commented that the Security Council should refer to the Court all of those accused of committing crimes against humanity "without discrimination based on political reasons," and not focus solely on Africa. In this light, Egypt called for the Prosecutor to begin an investigation of Israel, taking into account the recent Goldstone Report and the

Report of the Independent Fact-Finding Commission on Gaza.

¶11. Iran stated that the ICC should avoid double standards and politicization and that it should not be subordinate to the Security Council. Furthermore, only States party to the Rome Statute should be bound by it. Iran reaffirmed the position taken by groups such as the Organization of the Islamic Conference (OIC), the Non-Aligned Movement (NAM), and the African Group on the issue of Darfur. In addition, Iran called for ICC action over crimes committed in Palestine since 2002.

¶12. On November 2, the Netherlands presented this year's annual resolution on the ICC for the General Assembly's consideration. The resolution, with ninety-nine co-sponsors, was adopted without a vote. The United States delivered the explanation of position contained in reftel, while Libya commented that it was joining consensus on the resolution but that it still had reservations on the content of the Rome Statute.

¶13. The following countries addressed the General Assembly on the Report of the ICC on October 29-30: Sweden on behalf of the EU, New Zealand on behalf of CANZ, Trinidad and Tobago on behalf of CARICOM, Kenya on behalf of African Countries Party to the ICC, Senegal, Liechtenstein, Norway, South Africa, Cuba, Peru, South Korea, Sudan, Brazil, Japan, Switzerland, Egypt, Costa Rica, the Democratic Republic of Congo, Gabon, Mexico, Colombia, Ghana, Argentina, Venezuela, Uganda, Botswana, Nigeria, and Iran.
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